

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:09CR00063RWS/AGF
)	
FRANCIS L. BERREY,)	
)	
Defendant.)	

ORDER

The Defendant has filed a motion for a mental examination, pursuant to 18 U.S.C. § 4241, and requesting that this Court hold a hearing to determine the mental competency of Defendant. Defendant is charged with one count of Production of Child Pornography and one count of Possession of Child Pornography, in violation of 18 U.S.C. § 2251(a) and 18 U.S.C. § 2252A(a)(5)(B), respectively.

Upon motion of the Defendant, and it appearing to the Court that Defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense, pursuant to 18 U.S.C. § 4241,

IT IS HEREBY ORDERED that the Defendant's motion for a hearing to determine the mental competency of Defendant is **granted**.

IT IS FURTHER ORDERED that prior to the hearing and pursuant to 18 U.S.C. § 4241, Defendant be examined to determine whether he is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is

unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

IT IS FURTHER ORDERED that the United States Marshal for the Eastern District of Missouri take Defendant, in custody, to the United States Medical Center at Springfield, Missouri, forthwith, where he is to be examined as promptly as possible, but in no case for a period to exceed thirty (30) days, pursuant to 18 U.S.C. § 4241. Upon completion of the examination, the United States Marshal shall return Defendant to this judicial district.

IT IS FURTHER ORDERED that on completion of the examination, a report shall be prepared and filed with the Court in accordance with the provisions of 18 U.S.C. § 4247(b) and (c). The report shall include: (1) Defendant's history and present symptoms; (2) a description of the psychiatric, psychological, and mental tests that were employed and their results; (3) the examiner's findings; and (4) the examiner's opinions as to diagnosis, prognosis, and whether Defendant is suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense. Copies of the report shall be furnished to the government and to defense counsel.

IT IS FURTHER ORDERED that, while at the medical center for federal prisoners, Defendant shall receive medical and psychiatric treatment and be administered such medications as is deemed appropriate by medical personnel at the facility, unless Defendant expressly objects to the administration of any such medication.

IT IS FURTHER ORDERED that if the clinical staff determines that Defendant is presently incompetent, but that there is a substantial probability that in the foreseeable future he will attain the capacity to permit the trial to proceed, **the Warden shall contact the Court prior to transporting Defendant back to this district**, to give the parties the opportunity to avoid unnecessary transportation of Defendant.

IT IS FURTHER ORDERED that all further proceedings in this matter shall be stayed pending a hearing on Defendant's competency to stand trial.


AUDREY G. FLEISSIG
United States Magistrate Judge

Dated this 14th day of April, 2009.